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MICHAEL P. JUDGE
PUBLIC DEFENDER

TO: ALL STAFF

FROM: MICHAEL P. JUDGE
Public Defender

DATE: April 14, 2004

RE: MINUTES - EXPANDED STAFF MEETING

The Expanded Staff Meeting for the Public Defender's Office was held on March 11, 2004. The following are members:

Michael P. Judge	Kelly Emling	Paula Montez
Robert E. Kalunian	Gregory Fisher	Diane Parris
Lon Sarnoff	Bobby Gil	Geneva Phillips
John Vacca	Stu Glovin	Ramon Quintana
Ronald Brown	John Gonzales	Rudy Rousseau
Winston Peters	Laura Green	Stan Shimotsu
Darolyn Jensen	Bob Hall	Leslie Stearns
Alan Abajian	Bernice Hernandez	Haydeh Takasugi
Allen Adashek	Steve Hobson	Karen Thompson
Patricia Aguilar	Marvin Isaacson	Marilyn Turner
Verah Bradford	Lita Jacoste	Bill Weiss
John Brock	Judith Johnson	Ron White
Carol Clem	Robert Johnson	Mark Windham
Mike Concha	Clyde Juloya	Dennis Yamamoto
Corrine Cortinas	Charlie Klum	Janet Yarbrough
Joan Croker	Mark Lessem	Ron Yorizane
Patricia DeLaGuerra	Doug Love	
Mike Demby	John Martinez	
Wendy Edmisten		

The Expanded Staff Meeting of March 11, 2004 was chaired by Michael P. Judge, Public Defender.

Mr. Judge made thirty (30) year service presentations to Charles Klum, Robert Hall and Al Menaster. Mr. Judge also announced this was the last meeting of John Brock, Mike Demby, Geneva Phillips and Ron White due to their upcoming retirements and recognized each for their many years of dedicated service to the County and the Department. Mr. Judge encouraged all celebrate the marvelous careers that these individuals have had in the office, on April 1, 2004, at the California Plaza, Omni Hotel, Bunker Hill Room.

The following topics were discussed:

1. **STOCK CATALOG** by Darolyn Jensen.

Ms. Jensen distributed a packet containing the updated stock catalog to all managers. Ms. Jensen confirmed that each manager was provided enough catalogs to be distributed to their outlying area offices. Ms. Jensen noted that she has received responses from Supervising LOSAs that they had not received such catalogs after they were handed out at the previous staff meeting. Ms. Jensen requested that the local managers ensure that these catalogs are received by the Supervising LOSAs.

2. **CRAWFORD V. WASHINGTON**, by Al Menaster

Al Menaster, Acting Head Deputy of the Appellate Branch, summarized the recent United States Supreme Court case, Crawford v. Washington (2004 DJ DAR 2949; DJ, 3/9/04.)

The court in Crawford held that, "Where testimonial evidence is at issue, however, the Sixth Amendment demands what the common law required: unavailability and a prior opportunity for cross-examination." The court did not completely explore what "testimonial" means. However, it is clear that whenever the prosecution attempts to present alleged hearsay elicited from a police officer who supposedly obtained the information during a police interview, such hearsay violates the confrontation clause unless there was at least a legitimate prior opportunity for cross examination.

Testimony from police officers under Evidence Code section 1370, the so-called Nicole-Brown Simpson hearsay exception, describing injury or threat of injury to the person whom is claimed to be a "victim" is clearly testimonial and is barred by Crawford.

A more complex issue arises when the prosecution attempts to offer 1370 evidence

from a nurse, certainly a doctor, or paramedic. Those witnesses ought to be considered as state agents, especially if their reports to the police were mandated by state law. Interviews used for purposes of prosecution, from even these otherwise non-police sources must be construed as "testimonial" and therefor inherently violative of the U.S. and California confrontations clauses in legal presentations made by our lawyers.

It must be noted that so-called Declarations against interest, testified to by police, are clearly testimonial. This is especially true of the so-called "interlocking" declarations we often see, which in fact were soundly rejected in the Crawford decision.

There are other questionable exceptions to the core principles of the U.S. and California constitutional confrontation/cross examination rights. What about the controversial spontaneous statements, co-conspirator statements, and dying declaration exceptions. Each of these categories are mentioned in Crawford, but not fully discussed therein because to do so would be dicta.

Some have asked whether hearsay at preliminary hearings under Proposition 115 is now barred. This is unclear. In the past there have been cases that have held that confrontation does not apply at preliminary hearings. However, the nature of preliminary hearings has radically changed to the extent the exceptionally limited cross examination of a witness at a preliminary hearing may be insufficient confrontation under Crawford. The combination of the efforts by the prosecution to block proper cross examination at prelims together with the undue restrictions imposed by many judges at that stage, fly in the face of Crawford.

A major unsettled area is retroactivity of Crawford. This issue is being evaluated, but we just do not know if it applies to closed cases. In addition to the Week's Cases summary of Crawford, Mr. Menaster will prepare an article on Crawford by May 23rd, to be posted on the PDWeb.

Under the due process clauses non-testimonial hearsay should still have to be reliable in order to be admissible in courts. Thus, whenever hearsay is offered, we should object on confrontation and due process grounds, on both state and federal constitutional grounds.

3. INTERPRETERS/TRANSLATORS by John Vacca

From the lack of e-mails and telephone call complaints, it appears that the newest attempt to straighten out this problem with the new interpreter system is working. If anyone has any problems, please contact Mr. Vacca after the meeting.

Mr. Vacca stated he has been alerted to an issue of great concern to the Interpreters Unions and Association. At a meeting with their officers about a week ago, Mr. Vacca learned that Interpreters are particularly concerned about the fact that the District Attorney's Office has contracted with an out-of-state group of translators, to translate their documents and audio tapes. According to the interpreters here in Los Angeles, these out-of-state translators are not certified, do not have to take any examination, and there is no credentialing process in order to become an interpreter. As a result, the Union pointed out, **several instances where words have been misinterpreted with a significant difference in the meanings.**

The interpreters requested that we have every single tape re-translated. Of course no Court will appoint an interpreter without a showing of good cause. If a client or witness takes issue with a translation rendered by such a DA translator it is essential that DPDs take necessary steps to validate such proposed translations using fully qualified experts.

4. SPECIAL CIRCUMSTANCE UPDATES by John Vacca

Leading up to Head Deputy John Brock's retirement, Head Deputy Greg Fisher has been taking over as the Special Circs. Coordinator. Mr. Vacca reminded branch head deputies that Special Circumstance Updates are due on the 3rd of the month to Mr. Fisher. First the Updates must go to your Division Chief for review. These reports authorized by the Head Deputies must be thoroughly accurate, up-to-date and submitted far enough in advance so that Division Chief audits/questions/responses and those of Mr. Fischer will be incorporated in the monthly reports. To reiterate the reports should go first directly to the Head Deputy's Division Chief so that the Division Chief can review them pose any questions, receive the replies of the Head Deputies and have them arrive in time for the Special Circumstance Coordinators similar review/ audit/questions/responses to meet the deadlines and contain proper assessment.

Mr. Vacca would like the supervising Head Deputies to be thinking about the use of the special circumstance case reporting form, in terms of how we can improve it. There will be a discussion at length, regarding the special circumstances form and some other issues and problems at the next Branch & Area Head Deputy meeting.

5. COUNTY AMBASSADOR PROGRAM by Ron White

Mr. White distributed packets containing ambassador tool kits and requested that the packets be distributed to all staff. Mr. White spoke about the County's launch of the Ambassador Program in order to provide good basic information and services. The kit contains a lapel pin, a pocket card and a laminated card containing key information about the County's vision, mission and services.

6. PERSONAL MAIL by Marilyn Turner

Ms. Turner mentioned that personal mail, delivered instead to the office, may become very taxing and burdensome on our staff in the Department. To prevent that from becoming a significant problem that may impair productivity, effective immediately,

staff employees should not use the County's address for their personal mail. Supervisors, please ask your staff to use common sense, regarding mail. Please remind staff to inform their personal correspondents to send their correspondence to some address other than the office. There will be a grace period, but at some time in the future, it may become necessary to mark the mail "return to sender". This is not something the department would like to do but if this becomes a persistent issue it may become necessary. Common sense and discretion should prevail in this matter.

Any mail (except case/client related correspondence) of employees who are on leave is automatically sent to the employee's last location and the site manager either holds the mail for them, or if the employee does not come back to the office, decides where to forward the mail. Employees on leave are entirely and solely responsible for communicating to such a manager the destination to which the mail should be sent. Otherwise the manager will exercise appropriate discretion.

7. OUTSIDE EMPLOYMENT by Ron White.

Mr. White spoke about the Annual Outside Employment memo and form which will be distributed to all permanent employees. A supervisor must review, sign it off in section 4, and return all forms to Human Resources Division. If there is any outside employment or related activity, the Department Head or designee will conduct a review. These forms are due in the Public Defender's Human Resources Division to Lorraine Welch by April 9, 2004. When all are so received, there will be a report prepared and sent to the Board of Supervisors. The report to the Board of Supervisors is due shortly thereafter. Please be prompt.

8. DPD III & IV Exams by Lon Sarnoff

November 6, 2004, is the date of the next written Grade III and Grade IV promotional exams. The significant amount of advance notice is provided so that anyone considering taking such an examination has clear, ample notice of the date and pendency of the exams. Those who are interested are encouraged to plan their schedule accordingly.

9. MANDATORY DRUG COURT TRAINING by Mike Demby

Mr. Demby distributed two flyers with information on Drug Court Training. The training set for May 4, 2004 is mandatory for all drug court personnel. It will be held at Almansor Court in Alhambra. The Training Conference will be facilitated by UCLA and will include sessions for judges and staff new to drug court.

The second training will be held on June 21 & 22 and will be on Co-Occurring Disorders. This training is not mandatory and will be held at the Long Beach Convention Center.

10. INFORMATION TECHNOLOGY by Elaine Palaiologos

Ms. Palaiologos indicated the IT Department is making changes in processes designed to improve service. First there will be some changes in the IT security policy that are driven by the Board which may affect the way we do business. The new security policies are to cover everything from physical security and access to machines. We are in the process of looking at our own internal policies. This has been discussed with Executive Management, and Data Systems is attempting to ensure that the IT staff that are coming out to work on equipment follow established protocols. They will endeavor to communicate better with staff before servicing the machines and have more clear permission. This issue has come up a number of times and we are working on the appropriate resolution.

The Resource Advisory Group (RAG) process will be changed to improve service. Staff will be getting a response from Ms. Palaiologos when RAG gets their request. The RAG meetings, are the first or second Friday of the month, and a written response to all requests that have been approved or denied and why will be sent in a timely fashion. Ms. Palaiologos, who is recently on board, is desirous of being an albeit of positive change and will attempt within the limits of our small IT/total personnel staff to do so.